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87-1944

Supreme Court, U.S.
FILED
MAY 26 1988
JOSEPH F. SPANIOL, JR.
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES
October Term, 1987

EARLENE POLYAK — Appellant

vs

FRANK HULEN AND
WILMA LESNANSKY — Appellees

ON APPEAL FROM THE
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

JURISDICTIONAL STATEMENT

EARLENE POLYAK
3179 Middlefield Drive
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(313) 676-3364

QUESTIONS PRESENTED

1. Does the Court of Appeals affirming of the sale of properties bonded for appeal at private sale prove Tennessee Statute 29-27-117 Partition in Kind,on which she relies for settlement by agreement and parole possession since 1976, repugnet to the constitution?

2. Does the Court of Appeals affirming of sale of properties resulting from UNAPPEALABLE JUDGMENT which has never been granted jury trial or appeal as a right conflict with Rule 58.02 Tennessee Rules of Civil Procedure on which she relies and render rule repugnent to the constitution?

3. Does the Circuit Court of Appeals denial of stay and remand to state in docket control encourage manipiulative dismissals and conflict interest?

4. Is the sale of pro se litigant's properties bonded for appeal for his invalid lein upon her interest therein" at private sale when order of is being held constitutional?

5. Does the pro se litigant have appeal as a right and is the denial of due process and civil and constitutional rights and laws unconstitutional?

TABLE OF CONTENTS

	Page
OPINIONS BELOW	2
JURISDICTION	2
CONSTITUTIONAL PROVISIONS	3
STATEMENT OF THE CASE	5
REASONS WHY	14
CONCLUSION	23

TABLE OF AUTHORITIES

Page

Lindsey v Norbert.....16
405 U S 56(1972

Martin v Taylor.....15
521 S.W. 2d 582(1975)

Meriman v Saafield.....19
(1916)241 U S 22 28 S Ct 477
60 L Ed 868

Mullane v Hanover Bank & Trust.....16
339 U.S.(1950)

Tuney v Ohio.....16
273 U S 510(1927)

Vandenburg v Ohio.....15
4 Tenn. Civ App. (Higgins) 111(1913)

TCA.....15

NO.

IN THE
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vs

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ON APPEAL FROM THE
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FOR THE SIXTH CIRCUIT

JURISDICTIONAL STATEMENT

Appellan-Plaintiff below is Earlene Polyak, Appeal No. 87-6159(D.C. No. 1:87-0075(No. 1:84-0083 & No. 1:84-0082(Chancery No.1974).

Appellees-Defendants below are Frank Hulen And Wilma Lesnansky.

Companion Cases: Earlene Polyak v William Boston Boston Bates & Holt No. 85X -108; Earlene Polyak v Thomas Stack, Henry Henry & Stack No. 1:85-0125, and Counter-Claim, Buford Evans & Sons v Earlene Polyak No. 1:85-0125, all joined by 28 U.S.C. 1441(c) in United States District Court,Columbia Division to Earlene Polyak v Jim Hamilton and the Circuit Court of Lawrence County. Re: Earlene Polyak No. 86-5536 (Writ of Mandamus No. 86-5460 and Writ of Mandamus 86-5462.

OPINIONS BELOW

The opinions of the United states Court of Appeals for the Sixth Circuit are set forth in Appendix A. The opinions of the United States District Court, Columbia Division, in Tennessee are set forth in Appendix B.The opinions pertaining to this case in companion cases are set forth in Appendix C.

JURISDICTION

The order of the United States Court of Appeals for the Sixth Circuit was entered January 19, 1988, and Petition for Rehear was denied on March 9, 1988. The Notice of Appeal was filed on March 24, 1988, and this Jurisdictional Statement is filed within ninety days of March 9, 1988, pursuant to 28 U.S.C 1254(2).

The jurisdiction of this Court is invoked pursuant to Article III, Sec 2, which states that the judicial power shall extend to all cases in law and equity, between a state and citizen of another state; between citizens of different states.

The jurisdiction is invoked 42 U.S.C. Secs. 1981, 1982, and 1983;28 U,S,C. 1443,Fifth,Seventh,

Fourteenth Amendments,5 U.S.C. 504 Equal Access to Justice. The federal and constitutional questions were timely raised.

CONSTITUTIONAL PROVISIONS

The pertinent portion of the Fifth Amendment provides as follows:

> No...person shall br deprived of life; liberty; or property; without due process of law; nor shall be private property be taken for public use without just compensation.

U.S. Const., Amen. 3& 4.

The pertinent portion of the Seventh Amendment provides as follows:

> ...where the value in controversy shall exceed twenty dollars, the right of jury trial shall be preserved...

U.S. Const. Amen VII.

The pertinent portion of the eight Amendment provides as follows:

> ... nor excessive fines imposed, nor cruel and unusual punishment inflicted.

U.S. Const.Amen VIII.

The pertinent portion of the Fourteenth Amendment follows:

> No State shall make or enforce any law which shall abridge the priveleges or immunities of citizens of the United States; nor shall any state deprive any person of life; liberty; or property without due process fo the law, nor deny any person within its juridiction the

equal protection of the laws.
U.S.C. Amend.XIV.

28 U.S.C. Any of the following civil actions...

commenced in a state may be removed defendant to

district court....

(1) Against any person who is denied or cannot enforce in the courts of such state a law providing equal civil rights of citizens of the United States or of all persons within its jurisdiction.

(2) For any act under the color of authority deprived from any law providing for equal... rights...

42 U.S.C. Sec. 1981:

All persons within the jurisdiction of the United States shall have the same right in every state to make and enforce contracts,to sue... to the full and equal benefits of all laws.

42 U.S.C. Sec. 1982:

All citizens of the United States shall have the same right in every state ... to inherit, hold, purchase lease and convey real and personal property.

43 U.D.C. SEc. 1983.

Every person, who under the color of any statute, ordinance, regulation, custom or usuage of any state ... subject or caused to be subjected any citizen within its jurisdiction to the depriviation of rights and priveleges or immunities secured by the constitution and laws, shall be liable to the party injured in the action at law in equity or other proceedings of the parties.

28 U.S.C. 1651(a):

> The Supreme Court and all courts established by the act of congress may issue all writs necessary or appropriate in the aid of their jurisdiction and agreeable to usuages and priveleges of law.

28 U.S.C. 1254(2):

> By appeal by a party relying on a state statute held by the court of appeals to be invalid as repugnent to the constitution, treaties, or laws of the United States,... and the review or appeal shall be restricted to the Federal questions presented.

28 U.S.C. 2403:

> In any action...where the constitutionality of a atatute of the state affecting public interests drawn into questio..

STATEMENT OF THE CASE

When the Order was issued on October 5, 1987, in the United States District Court, Columbia Division, Frank Hulen and Wilma lesnansky v Earlene Polyak(Complaint and Counter-Claim) No. 1:87-0075, Petitioner was not in this Court, and has never been beyond the front desk of this Court in Nashville, Tennessee. And the United States Court of Appeals for the Sixth Circuit affirms the order used to suppress Notice of Appeal to this Supreme Court on October 2, 1987, in another docket control.Decision:

> This action came to trial or hearing before the Court. The issues have been tried or heard...

Although this case is bonded and on appeal, Appellant has learned that her property has been sold by Robert Boston, son of William Boston, Boston Bates & Holt, for his invalid lein upon her **"interest therein"** in **"Second Order"** submitted to the Honorable Jim Hamilton, Chancery Court on August 21, 1988, for sale at **"PUBLIC AUCTION "** (App.C p.

Appellant has learned that this alleged "Public Auction" was disregarded for sale of her Travel Trailer and property for indebtness. It appears that his add was run in local paper without general circulation for about one week,sold at the Chancery Courthouse door, bought by an assignee, or assignor and the order has not been entered for appeal by Judge Hamilton in disregard for Tennessee Statute, Federal laws, Fifth, Seventh and Fourteenth Amendments (See Affidavit(App. A. p.12).

It is this Second Order for the sale of Appellant's property without jury trial or any appeal ever being heard that gives cause for this Complaint and Counter-claim, which the United States District Court denies federal protection in the denial of due process civil and constitutional rights and laws, and the Court of Appeals for the Sixth Circuit affirms order for depriviation of these constitutional rights and laws by denial of petition for rehear en banc in docket control.

The SECOND ORDER for sale at "Public Auction" on Robert Boston's **"invalid lein on interest therein"** is an initial, and

separate, and first order submitted by Robert Boston.Appellant submitted complaint and counter-claim pursuant to federal laws and removal within thirty(30) days. She complainted to open under Rule 60(b)(2)(3) and by the Court's own motion for fraud upon the Courts Fedeeral Rules of Civil Procedure No. 1:84-0082 Frank Hulen and Wilma Lesnansky v Earlene Polyak, which had been dismissed for final judgment and 1:84-0083Earlene Polyak v Frank Hulen and Wilma Lesnansky for res judicata when the judgment on April 26, 1986 was not final(App.C p. 42).

Although pro se litigant tries to style cases, the District Court Clerks biased all cases with the same style and all her motions are disregarded by District and Court of Appeals Supervisors(App. A p.31). Appellant believes that case is further discriminated against in the application submitted to pro se litigant in paid case for forma pauperia Ms. Yvonne Henderson, Supervisor in the Court of Appeals.

Although the motion for Disqualification had been before the Honorable Thomas A. Higgins due to Appellant's belief that Judge prejudiced and biased, September 18,1986, when Judge denied this motion September 24,1987, and remanded 1:87-0075 September 29,1987.Appellant appealed to the Supreme Court for conflict of interest and failure to rescue on October 2,1987. Complaint fron August 28 filed & denied September 29,1987

Appellant withdrew petition for rehear with Formal Letter

to Ms. Juliet Griffin, Clerk of the District Court, after she learned that Ms. Griffin mislead her when she stated rules of law attached at botton, which was a personal memorandum from Robert Boston. Appellant believes that Clerk takes personal bias to federal position (App. B. p.33).

When Ms. Griffin failed to respond to Appellant's call for information about appeal, she sent **Notice of Appeal** to SUPREME COURT by **express mail** and called **taxi** to take it to District Court on Friday October 2, 1987(App. B.25).

Ms. Griffin invalidated Notice of Appeal to the Supreme Court on October 5, with the formal order, which Appellant has never known to be issued from District Court,"Decision: this action came to trial on hearing before the Court , the issues have been tried or heard and a decision has been re-dered." (App. B.30).

Appellant tried to amend Notice of Appeal to the Supreme Court and submitted under 28 U.S.C. 1443 on October 16, 1987, but Mr. Mike Laughlin,pro se law clerk sent notice of Appeal with a letter to the Court of Appeals(App.B p. 30).

Finally, Appellant was forced to give up attempt to appeal to the Supreme Court due to harassement by District Clerks, and her illness of heart problem and frequent hospitalizantion, and the fear that she would lose all appeal to this case(App. B p.23).

On November 30, 1987, after hospitalization for four times and finally in Cardiac Unit of University of Alabama from October 20 to 30, 1987,and moving to Florida for winter due to acute heart problem, Appellant tried to clear appeals and filed briefs in the Court of Appeals(App.23).

After Appellant withdrew appeal to the Supreme Court,and while preparing briefs she found that her appeal had been filed in the Supreme Court on October 27, 1987, while she was hospitalized(App.B p.24).

On November 30, 1987, Appellant filed a motion to set aside attorney attorney costs and fees awarded Robert Boston as he never filed certificate of service and allow objections in the Court of Appeals(App. B 22).

The first order to sell property settled by agreement 1976 which as a result Appellant restored 46 year old house at he own expense and maintained to this day, was prepared by Boston Bates & Holt and signed by William Boston , Thomas Stack Henry Henry & Stack, and against her objections to Judge Hamilton on October 19, 1983(App. p. 43).

This order did not award Appellant any compensation for restoration investment and maintenance of property and was prepared William Boston Boston Bates & Holt divided loyalty after seven years and resulted in Complaint No. 3:85x-108,which the Honorable Thomas A. Wiseman District Judge dismissed.

The appeal to first order to sell property was dismissed as a result of **UNAPPEABLE JUDGMENT** prepared by Boston Bates & Holt and signed by Charles Holt and Judge Hamilton on December 20, 1983, in the Court of Appeals of Tennessee(App.C 48).

Appellant learned that Thomas Stack Henry Henry & Stack sent Buford Evans & Sons upon her property without her knowledge or permission and she believes survey invalid.

The hand-drawn map submitted by Buford Evans & Sons to show that property could be partitioned in kind correlated with first order to sell property by William Boston Bates & Holt . buford Evans & Sons sued Appellant and she was subjected to a second unfair and unjust trial in which was unexpected she was unprepared and she believed that judge Hamilton prejudiced the jury(App.C p.45).

Appellant believes that she was subjected to unjust hearing while the jury was out on another trial (2) the complaint did not testify;(3) her husband did not get to testify about evidence of drawing division lines on agreed settlement by agreement; and she was forced to testify against a nationwide warning to heart patients in 102 degree temperature in first verbal order to sell by Judge hamilton on July 29, 1983.

Appellant believes Judge Hamilton prejudiced and biased for local persons and Judge has disregarded dismissed or denied all motions or petitions from pro se litigant and has never

ruled in her favor.Judge Hamilton disregarded entering the judgment on December 26, 1984, until August 7, 1987, which is a period of about eight months. She believes that the amendment to Rule 5(a) deleting the requirement that a copy of Notice of Appeal be filed with the Court of Appeals of Tennessee on August 14, 1984, allows for discrimination against female pro se litigants (App. C p. 49).

On November 7, 1985, Judge Hamilton denied motion to forward records to the Court of appeals, Tennessee and Appellant believes that she has been denied due process and deprived of civil and constitutional rights and laws (App. C p. 50).

On November 8, 1985, Appellant filed complaint in the United States District Court at Nashville, but complaint was entered in Columbia Division of Court, which is located in the same building as the state court, Complaint No. 1:85-0016, Earlene Polyak v Jim Hamilton and the Circuit Court of Lawrence County.

Appellant joined under 28 U.S.C. 1441(c) to 1:85-0016,No. 1:85-0120 Buford Evans & Sons v Earlene Polyak;No.3;85X-108 Earlene Polyak v william Boston Boston Bates & Holt;1:85-0125,& Earlene Polyak v Thomas Stack Henry Henry & Stack .

Judge Wiseman dismissed No. 1:85-0116 within five days with our filing and enjoined appellant from filing further complaints involving her property on November 13, 1985.

This case is presently on appeal to the Supreme Court after the United States Court of Appeals denied petition for review with companion cases under Rule 60(b) (2)93) Federal Rules of Appellate Procedure, and petition for rehear en bance on April 21, 1988.She submitted both petition for review and petition for rehear en banc;

Judge Wiseman remanded Buford Evans & Sons No. 1;85-0120 to state court. Buford Evans & Sons is Counter-claim and on appeal in the Court of Appeals No. 87-6272.

Judge Wiseman found merit in allegations of neligence and malfesance in Thomas Stack Henry Henry & Stack and this case is presently pending in the District Court(App. C p. 51).

Judge Wiseman dismissed No. 3;85X-108 on order of enjoin on November 13, 1985, but Appellant submitted second complaint. After Judge Wiseman disregarded motions to schedule jurty trial Appellant filed Writ of Mandamus No. 86-5460 in Boston Bates & Holt and No. 86-5462 in Henry Henry & Stack.

On April 30, 1986,Judge Wiseman answered No. 86-5460,in a letter to John P. Hehman, Clerk of United States Court of Appeals stating that Order on November 13, 1985 enjoining," **"That order was entered because of previous filings of Mrs Polyak against various persons in this Court,..."** She assumes Judge Wiseman is referring to the District Court located in the same building as state court, and various lawyers work

and Judge Wiseman presides(App. C p. 52). Judge Wiseman rescued himself in an order on May 2, 1986, and closed all of pro se litigant's cases Appeal No.86-5536. Appellant has appeal enjoin on November 13, 1985, in Jim Hamilton et al., No. 85-6134, and Appeal No 86-5536 in which the Court of Appeals has disregarded.

The Honorable Thomas A. Higgins filed No. 1:86-0036,Boston Bates & Holt after Court of Appeals stated in denial of 85-5460, that appellant could appeal if ccomplaint was not filed, and this case is still pending in the district Court.

Plaintiff believes that Judge Higgins prejudiced and biases as Judge accused her of being guilty in 1:85-0116, which Judge Wiseman did not state. Judge Wiseman stated she states William Boston Boston & Bates guilty which she did not state, and she submitted notion to disqualify on August 24, 1986.

All companion cases ariseout of initial Chancery No.1974, which Appellant removed to District Court after dismissal on **UNAPPEALABLE JUDGMENT** prepared by Boston Bates & Holt. Bobert Boston son of William Boston, submitted **SECOND ORDER TO SELL APPELLANT'S PROPERTY AT PUBLIC AUCTION.**Appellant believes her property has been sold without **jury trial or appeal.**

Appellant contends that she has been denied due process and deprived of civil and constitutional rights and laws, and that she surrers irreparable damage and loss retirement home.

REASONS WHY QUESTIONS REQUIRE PLENARY CONSIDERATIONS

The Notice of appeal to the **second order** to sell pro se litigant's properties without **jury trial** or **appeal** ever being heard to the Supreme Court on October 2, 1987, was supressed in the United States District Court and the Court of Appeal for Sixth Circuit affirms the order alleging a hearing on October 5, 1987. Appellant appeals the affirming of alleged hearing in which she was not present.

Appellant appealed to the Court of Appeals on conflict and failure to rescue after the Honorable Thomas A. Higgins denied motion for disqualification submitted on August 24, 1986,on September 24, 1987, and remanded complaint submitted on August 27, 1987 finally filed on September 29, and remanded same day September 29, 1987, without allowing objections.

Appellant contends that this departure from the accepted sourse of judicial proceeding to pro se litigant in the lower courts can not be sanctioned by this Supreme Court.

1. **Appellant relies upon state statute and case law supported by the Constitution of united states.**

Appellant relies upon Tennessee Statute and case law to support settlement by agreement in 1976, for

division of property, which as a result of this agreement she has invested in the restoration and maintenance since 1976, a period of more that seven years, for a retirement home and maintains at her own expense to this day. This settlement by agreement and possession is supported by Tennessee Statute:

> 29-27-117: If... exact partition cannot be made without material injury to the parties or some one of them..., May partition as nearly equal as they can and charge the larger shares the sums necessary to equalize all shares. Tennessee code annotated 1932.

finds an abundance of case law in the different states supporting partition in kind, but uses an example from Tennessee.

> The court may... in accordance with the wish of one or more of the cotenants, order an allotment of shares ...**in kind and severalty** and direct the sale of other portion if it is not susceptable to division. Vandenburg v Molder,4 Tenn. Civ app. (Higgins)11(1913).

Appellant is handicapped and disabled and in need of the temperate climate and income from her agreed partition of property.She finds that her investment in property is binding and enforceable.

Parole possession of land folowed by possession is binding and enforceable. Martin v Taylor. (Tenn. 1975) 521 S.W. 2d 582.

Appellant believes that this Second Order is created with the intent to sell property in bonded appeal with "invalid Leins" for lein by Robert Boston to sell property on her **"interest therein'**is an initial separate and First order submitted to Judge Hamilton on August 21, 1987.She believes that the remand of this Second order on October 5, 1987,suppor another individual attempt to sell property, which the appeal has never been heard without jury trial in violation of Tennessee Statute and Case law and the Fifth, Seventh, and Fourteenth Amendments. The a ffirming of the Court of Appeals of the District Judge's denial of appeal to the Supreme Court is denial of due process and the deprivialtio of civil and constional rights and laws.

> The Supreme Court... has recognized that due process requirements are implicated when the enforcement power of government is employes to deprive an individual of an interest deprived from common law , peaceful possession Lindsey v Norbert 405 US 56(1972)or use, Mullane v Haniver Bank and Trust Co.339 US (1950) of real and personal property. And the assurance of a "neutral Magristrate" who has no... interest in reaching a conclusion against him. Tuney v Ohio, 273 US 510(1927)

2.The Court of Appeals affirms supression by the District Court of Notice of Appeal to Supreme Court

The Court of Appeals affirms the supression of pro se litigant's Notice of Appeal to the Supreme

Court on Counsel's memorandum attached to Second Order to sell property for his invalid lein by Clerk under what Appellant believes to be biased and prejudiced Judge and remand is appealable to the Supreme Court under 28 U.S.C. 1443(1)(2).

The District Judge improperly denied removal and pro se litigant denied due process civil and constitutional rights and laws and meets the two progned effect.The Second order to sell her property for invalid leins upon her "interest therin" was porpelyy submitted within thirty(30) days but Judge disregarded conplaint and counter-claim(defendant) which was submitted on August 27, which is six days after initial order on August 21, 1987, but Judge disregarded counter-claim until September 29, 1987. 1443(2)Detroit Police lts. and Sqts.Ass. City of Detroitsupra, 597F 2d at 568.

Pro se litigant has been denied due process civil and constitutional rights and laws and none of her cases have ever been heard in the appeal of the sale of her property. She is denied State Statute 29-27-117, federal laws 42 USC Sec 1981, 1982 and 1983 and under 1443(1).Johnson v Missippi 421 us 213 222(1975)And it appears No. 85-5032 and 84-6090

which extends to persons of different nationalities in Supreme Court decision in 1987.

3. **The Court of Appeals affirms denial of removal statute(counter-claim)in conflict of interest and failure to rescue.**

This second order supported with invalid leins with the intent to sell pro se litigant's property at"Public Auction was remanded after judgeHiggins denied motion to disqualify on on September 24,and order of remand on September 29, 1987.

> And some of the cases imply that permitting remand of pendent state claims denied defendant the protection of the removal statute and **encourages manipulative dismissals.** In Re. Grey Hound Lines Inc. 598 F2d 884.

The invalid leins by Robert Boston and supports Buford Evans are invalid in that in each case appeals are bonded and pursuant to Tennessee laws bond dispells leins.

The leins have not been served in the county where the land lies and invalid by Tennessee law.

The two leins by robert Boston, one of undisclossd amount and second for $1112.67 was created in the District Court when Robert Boston submitted instruments from removed case Chancery CourtI:84-0082 (1974) Chancery Court bonded case for $1000.00,showing

case final, which was actuly dismissed by pro se litigant appealing **unappealable judgment** prepared by Boston Bates & Holt and signed by charles Holt and Judge Hamilton. .dge Hamilton has since been accused of bias for this law firm in the local newspaper(App.

Appellant contends that the dismissal of 1:84-0082 was an error by The Honorable Thomas A wiseman. And that this unappealable judgment is invalid by Supreme Court rules pursuant to 50.02 FRAP.

> Supreme court has stated it as as "familiar law" that only final judgment is res judicata. Merrian v Sasfield,(1916) 241 US 22 28 Sct 477 60 1 Ed 868.

Appellant believes that this Supreme Court decision renders 1:84-0082 and error and the dismissal of 1:84-0083 for res judicata invalid. It is this decision that Robert received reward of attorney fees and costs which were composed mainly of long telephone calls to his father William Boston This award was not served certificate of service in the Court of Appeals by Robert Boston and allowed object-In fact this lein was **secretly submitted in Lawrence County register of deeds until** August 21, 1987.

All complaints by pro se litigant have been dismissed or denied in the District Court without

any kind of hearing or oral argument. On November 13, 1985, Judge Wiseman enjoined pro se litigitant from filing further complaints regarding her property in Lawrence Count. In a letter to John P. Henman Judge Wiseman explains order of November 13, 1985. **"That order was entered because of previous filings of Ms.Polyak against various persons in this Court.'**

Appellant believes that Judge Wiseman is referring to the District Court which is located in the same building with the state court and lawyers practice and Judge Wiseman oreside. She contends that Judge Higgins extends this same prejudice toward her as in his order on May 12, 1986, it is states that she is guilty. She suffers this stigma imposed by judges in that the court of Appeals disregards appeals and the Judges did not give her a time or place to defend herself.She believes that the pro se litigant is again being denied due process and deprived of civil and constitutional rights and laws.

Robert Boston incorporates all leins in Second Order to sell for leins upon Appellant's "interest and Buford Evans & Sons 1;85-0125 submitted two leins. These leins were appear to be for the same survey when Buford Evans& Sons went upon Appellant's property

without her knowldege or permission and surveyed property 1974 Case 16047(1:85-0120).She was subjected to anotherunjust and unfair trial in which she was denied due process and deprived of civil and constitutional and laws(See Map App.

Appellant noticed that the hand-drawn map by Buford Evans in Tract #3 to prove property could be equally divided for Thoas Stack Henry Henry &Stack No. 1:85-0125correlates with Item 2, in the First Order to sell on October 19, 1983, prepared by Wiiliam Boston Boston Bates & Holt two show that property could not divided equally(App.

4.The Court of Appeals declares Tennssee Statute upon which pro se litigant relies repugnet to the constitution in the affirming of the District Court's dismissal of jury trial in Second order.

Appellant does not have any knowledge or expertise in the legal profession, but she understands that cases may be opened on new evidence and pursuant to Rule 60.(b)(2)(3) and upon the Court's own motion for fraud upon the Courts FRAP.

Appellant removed New and Second Order to sell property for leins upon her "interest therein" by Robert boston on August 21, 1987, withinsix days, but judge Higgins did not enter complaint until

September 29, 1987 after the Judge denied motion to disqualify on September 24, and acted in remand on September 29, 1987.

Appellant contends that she has described the UNAPPEALABLE JUDGMENT on which 1:84-0082(1974) was dismissed in the District Court with instruments showing final order which is not valid pursuan to Rule 58.02FRAP.And that this error deems the res judicata in error in 1:84-0083, which appellant submitted complaint under **Tennessee statute in kind and severalty** and under diversity of citizenship. She believes that these cases can be opende under Rule 60(b).

Appellant contends that order for sale of property for Robert Boston's invalid leins on her interest therein is a **new and second order** and that she has again been denied hearing or jury trial and this judicial proceeding is sanctioned by Court of Appeals

Appellant has learned that obert order for public auction but her Travel Trailer and property or properties have sold and the order is being held without entering for appeal. She contends that she is being denied due process civil and const

tutuioal rights and laws. **Appellant suffers irreparable damage in the loss of her properties and the loss of a right to never be regained in her retirement home.**

CONCLUSION

Appellant prays that this Supreme Court hear her appeal and restore all of her properties with all of the damages as set forth in these cases

On the 20 th day of May, 1988.

Respectfully submitted,

Earlene Polyak
3179 Middlefield Drive
Trenton, Michigan 48183
(313) 676-3364

CERTIFICATE OF SERVICE

I certify that a true copy of this pleading has been mailed to robert Boston, 2100 One commerce Place, Nashville, Tennessee 37239.

Earlene Polyak

STATE OF MICHIGAN
COUNTY OF WAYNE

_____ My commission expires:
MOTARY PUBLIC

APPENDIX A

In the United States District Court of Appeals for the Sixth Circuit.

Frank Hulen and Wilma Lesnansky v Earlene Appeal No. 87-6159(D.C. No. 1:87-0075(1:84-0082, Frank Hulen and Wilma Lesnansky v Earlene Polyak, and 1:84-0083, Earlene Polyak v Frank Hulen and Wilma Lesnansky).

Final Judgment of the District Court on October 5, 1987.

Judgment affirmed in docket control in the Court of Appeals on January 19, 1988.

Motion for Stay of sale of property denied on January 19, 1988.

Petition for Rehear denied March 9, 1988.

Objection to failure to notify and stay mandate March 21, 1988, but never acted upon.

Notice of Appeal to the Supreme Court filed March 24, 1988.

Motion for Stay to Judge Peck was not acted upon,submitted on January 25, 1988.

Motion for Recall Mandate denied May 17,1988.

Affidavit describing sale of property.

UNITED STATES COURT OF APPEALS
SIXTH CIRCUIT

FRANK HULEN AND
WILMA LESNANSKY

MARCH 24, 1988

Plaintiff/Appellees

JURY TRIAL DEMAND
No.87-5169

v

D.C. No. 1:87-0082

EARLENE POLYAK
COUNTER-CLAIM

(1:84-0083 & 1:84-0082)

NOTICE OF APPEAL

Appellant Earlene Polyak, gives notice of appeal to this Court's affirming of the United States District Judge's conflict of interest and failure to rescue in order on order on January 19, and denial of petition for rehear on March 9, 1988, to the Supreme Court of the United States. And she believes this Court discriminated in considering pre paid appeal under misleading application for Pro Se Appellant's forma prauperis under 28 U. S.C. 1443(1) (2 . she was not present in the District court as alleged on October 5, 1987,which negated Notice of Appeal on October 2, 1987, in the denial of federal protection indenial of due due process and depriviation of civil and constitutional rights involving pro se litigant and her Properties 1983.

This Court affirms state of partition in kind on which pro se litigant relies as repugnent to the constitution in conflict of interest with the Fifth Adment and affirms sale of property without due process and without just compensation.

This appeal is taken pursuant to 28 U.S.C. 1254 (2). On the 21 st day of March, 1988.

Earlene Polyak
3179 Middlefield Drive
Trentoh, Michigan 48183

Certificate of Service

I certify that a true copy of this pleading h been mailed First claes to U.S. district Court Nashville, Tennessee 37203, Robert boston, 2100 Commerce Place Nashville, Tennessee 3729 and Chancer Court Lawrenceburg, Tennessee 38464.

_____

UNITED STATES COURT OF APPEALS
SIXTH CIRCUIT

FRANK HULEN AND
WILMA LESNANSKY

Plaintiff/Appellees

v

EARLENE POLYAK

COMPLAINT AND COUNTER-CLAIM

DEMAND JURY TRIAL
No. 87-6159(D.C.1:87
0075(1:84-0083 & 1:8
0082)

OBJECTION TO FAILURE TO NOTIFY
AND TO STAY MANDATE
FOR APPEAL

Appellant Earlene Polyak, objects to mailing of denial of rehear on March 9, 1988, without allow seven days for stay, and moves for stay of mandate for Notice of appeal to the Supreme Court of the States(Ex.1). Order was mailed to Trenton, Michigan forwarded on March 14, which is sux days, received in Lake park, Florida March 19, 1988.(6 days).

This court has failed to consider that Appellant was not present and objectd to allegation as entered in her absence which denies due process and the depriviation of civil and constitutional rights and laws on October 5, 1987, in conflict of interest and failure to rescue by the District Court pursuant to 42 U.S.C. Sec 1983. she believes

that the sale of her properties without just compensation at "Public Auction" is in conflict with the Fifth Amendment and seeks appeal to the Supreme Court.

On the 21 st day of March, 1988.

Earlene Polyak(313) 676-3364
Lake Park, Florida 33410

Certificate of Service

I certify that a true copy of this pleading has been mailed First Class to the United States District Court, Nashville, Tennessee 37219, and the Chancery Court, Lawrenceburg, Tennessee 38464.

Signed Earlene Polyak

This motion was never acted upon to Appellant's knowledge.

UNITED STATES COURT OF APPEALS
SIXTH CIRCUIT

FRANK HULEN AND
WILMA LESNANSKY

DEMAND JURY TRIAL

V

87-6159D.C. 1:87-0075
-84-0082 & 1:84-0083)

EARLENE POLYAK

MOTION TO RECALL MANDATE
FOR OBJECTION AND APPEAL

Appellant Earlene Polyak, moves to recall mandate issued by new clerk, Ms. Cheryl Borkowski for overlooked objection to Failure to Notify and Stay Mandate for appeal submitted May 21, 1988.

This Notice of appeal to the supreme Court for conflict of interest and failure to rescue is the **first in a series of four by the Honorable Thomas A Higgins after denying motion to disqualify in all of pro se litigant's cases** on September 24, and remand to state court on September 29, 1987. This Court denied stay and affirmed District Court **order on October 5, 1987, ~~in which~~ Appellant was not present in the court room** and she believes she has been denied **federal protection in the denial of due process and deprivation of civil and constitutional rights and laws** She believes Clerk issued order on October 5, 1987,to invalidate **notice of Appeal to the Supreme Court** on October 2, 1987. Notice was sent to this Court when

appeal lies to the Supreme court. appellant tried TWO TIMES to appeal to the supreme Court from United States District Court.

Appellant moves for recall of mandate for review of Affidavit (Ex. 1) in sequence of events she be- probable cause in sale at **'Public Auction.'**

On the 15th of April 1988.

Signed Earlene Polyak
3179 Middlefield Drive
Trenton, Michigan 48183
(313) 676-3364

Certificate of Service

I certify that a true copy of this pleading has been mailed First Class to the U.S. District court, Nashville, Tennessee 37203, Robert boston 2100 One Commerce Place, Nashville Tennessee 37239, chancery Court, Lawrenceburg, Tennessee Lawrenceburg,Tennessee 38464.

Signed Earlene Polyak

This motion has never been acted upon to Appellant"s knowledge to this day May 5, 1988.

No. 87-6159

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED MAR 9 1988

FRANK HULEN AND
WILMA LESNANSKY

Plaintiff-Appellants

v

ORDER

EARLENE POLYAK

Defendant-appellant

BEFORE: MERRIT and RYAN, Circuit judges and
PECK SENIOR JUDGE

The court having received a petition for a rehear ing and the petition having been circulated not only to the original panel members but also to toher acti Judges of this Court, and no judge having requested a vote on the rehearing en banc, the petition for rehea ing has been referred to original hearing panel.

the panel has further reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. Accordingly,the petition is denied.

Signed John P. Hehman

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

RANK HULEN AND
ILMA LESNANSKY

JUDGE ENGEL

NO. 87-6159

ARLENE POLYAK

MOTION FOR STAY

Appellant Earlene Polyak, moves for a stay of the ale of her properties in Lawrence county at Public uction pending appeal of the above styled case. Although robert Boston has placed a lein against her roperty to sell at Public auction.

Robert boston only awarded $850.01 in this Court ut he has placed leins for $1112.76 in the Chancery ourt of Lawrence county of Lawrence county. Robert oston did not serve certificate of service to allow ppellant's objections. the services charged for in the nited States district court were composed mainly of ong distance telephone calls to this father, William oston Boston, Bates & Holt.

Buforc Evans has placed lein to sell Appellant's óperty on "interest in property. Although Appellant' nd her husband made bond for twice alleged amount ved buford Evans, Circuit court Clerk Gerald Wilson as signed a lein.

Appellant believes that the Honorable thomas A

Higgins supports local prejudice and influence, and has a conflict of interest. judge Higgins has failed to rescue himself after motion in district court for one year. she believes that Judge intends to dismiss cases without jury trial. She is unalbe to defend this sale due to the acute health problem which requires immediate treatment.

Appellant is unable to type up a formal argument for stay but she refers to the above appeal to this Court. she is attaching copies of information to be reviewed for stay.

On the 19th day of october, 1987.

Respectfully submitted,

Earlene Polyak
3179 Middlefield drive
Trenton, Michigan 48183
(3130 676-3364

Certificate of Service

I certify that a true copy of this pleading has been mailed to richard boston, 2100)ne Commerce Place Nashville, Tennessee. 37319.

_____

UNITED STATES COURT OF APPEALS
SIXTH CIRCUIT

(Ex.1)

Case no. 87-6159
MOTION TO RECALL MANDATE

Affidavit

Affiant Earlene Polyak deposes and says:

That on April 1, 1988, she arrived in Lawrenceburg, Tennessee to check on her properties before driving to Michigan. that by chance she met a friend who inquired about the sale of her property. The friend described an add in a local news paper the "Advocate" under Affiants name for Trustee sale for indebtness. A farm north of Lawrenceburg off Federal Highway 43 of about forty(40) acres with Travel Traile was advertised for sale at the East Door of the Courthouse at**'Public Auction."**

On April 2, 1988, Affiant and her husband Alex Polyak, started to drive north to the farms and she stopped at local drug store to get a copy of the Advocate. she was informed that the Advocate was not available in boxes and could not be bought on the street. She believes that Tennessee Statute stipulates that adds be run in a **newspaper of general circulation** and Advocate can only be obtained by subscription.Some times this paper is not sent to her, but when she

Advocate that denied that any add with her name was in the edition.

Affiant foune Travel Trailer, which had been vandalized in 1986, in good condition as she left it last summer. Affiant saw four new houses on samall acreages after leaving High way 43. she found restored house for a retirement home undisturbed. Affiai pays taxes, electric and telephone is on vacation and maintains this house at her own expense to this day.

On April 4, 1988, Affiant was still concerned about the possibility of this property being sole without notifying her at "Public Auction," as this **information was by chance and rant true.**

Affiant has made two five hundred ($500.00) checks for bond in Chancery No. 1974, and she and her husband signed bond for twice alleged amount due Buford Evans & Sons in Circuit Courtn No. 10647. she believes that the lein by robert Boston for $1112.67 is invalid. Robert Boston did not serve certificate of service and allow objections and motion to recall Mandate(85-5032/5101/5147 and 84-6090) denied by **Clerk's in this court.** Buford Evans & sons did not serve lein for &475.00 plus interests and costs in county where land lies and invalid to Tennessee

Statute. Also, Robert boston alleges certificate of Service to district court for $1112. 67, which Affi did not receive for this lein.

That Affiant called Register of Deeds, Circuit Court clerk, Chancery court clerk and Master and th Advocat, and all denied knowledge of sale, Affiant has sent letters to Chancery and Circuit Courts tha she would pay for any information about her cases C.O.D.. Affiant's second forty acres became involve when Gersld wilson Clerk demanded that she bring a copy of the deed to the (soly owned forty acres) forty acres before he would allow her to appeal Buf Evans & Sons law suit,. she is afraid this property will be sold too at **"Public Auction.'**

On April 11, 1988, Affiant decided to try agai when she informed Frank Hulen that Travel Trailer a vertised for sale on property at**"public auction**, he stated that Travel Trailer was mobile vechile and not for sale with property. the Circuit court Clerk denied order for sale entered and referred Affiant to Chancery Clerk again.Ms. Geneva FrisbeeC&M went through the file and found that **original of Robert Boston's Second Order to sell property for his lein on Affiant's "interest therein' was not in the file**

Affiant's objections to the **Second order to sell** were in the file.

The Honorable Jim Hamilton responded to Affiant's telephone call. Judge Hamilton stated "if the property had not been sold, it ought to be sold, signed a bunch of stuff, dosen't know if property sold, ask lawyers. Judge recently had a tumor removed from the front of his forehead.

Finally, Affiant reached Mr. William Boston Boston Bate & Holt after third telephone call and he stated "could not talk to her, and that even she should know better that to call him, but he did accept apology, and stated to call his lawyer."(son).

Affiant finds Robert Boston's representation of his father confusing.It appears Robert Boston handled(1974) Cases 1:84-0082Frank Hulen and wilma Lesnansky v Earlene Polyak, and Earlene Polyak v Frank Hulen and Wilma Lesnansky 1:84-0083 in district and in and again 84-6090,and 85-5032/5101/5147 in court of Appeals, but William Boston took 87-6268(1:84-0082) after appeal on November 16, 1987.(**Petitioner believes property sold at this time and order has been held five months without entering**). Affiant thought Robert Boston representing William Boston,

Bates & Holt, but Ms Yvonne Henderson, Case Su,- ervisor corresponds directly with client William Boston.

Robert Boston does represent William Boston Boston Bates & Holt in 1:86-0036,Affiant called, but he did not return call.On April 12, 1988, she called again but was not available. **Affiant left message when property sold,for how much, and towhom.**

Tennessee has law order must be entered in seven days. also, bid can be raised in ten days and property must be sold again.

Affiant states that on July 29, 1983, william Boston Boston Bates & Holt held order submitted for preparing by Judge Hamilton until October 19, 1983, **about three months.**

On December 26, 1984, Judge hamilton did not enter judgment to be appealed until August 7, and Amended order on August 22, 1985, which Affiant immediately appealed as she thought Judge Hamilton prejudiced the jury toward her and her husband of a different nationality.

She was ordered to trial unexpectedly,unprepared for trial, and Judge Hamilton denied motion for a continuance supported by medical statements,

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION

FRANK HULEN AND
WILMA LESNANSKY

V

No. 1 :87-6159
(D.C. 1:87-0075

EARLENE POLYAK

(1:84-0082 & 1:84-0083)

MOTION FOR STAY
PENDING SPPEAL

Appellant Earlene Polyak, moves for a stay in the above case in which the mandate has been inadvetently mailed by new Deputy Clerk at court of Appeals, pending appeal to the Supreme court.

This case has been appealed to the supreme court as Appellant was not present in the courtroom as alleged by the Clerk in the Order on October 5, 1987, The Court of appeals has mistakenly affirmed this INVALID ORDER and appeal lies to the Supreme court. Appellant tried two times to appeal to the Supreme Court, but Clerks disregarded Notice of appeal to Supreme court and sent to the Court of appeals.Ms. Juliet Griffin wrote a letter stating **all appeals to to the Sixth Circuit but a few,andAppellant's appeal did not qualify and blocked appeal.**Appellant believes that her properties,one with travel trailer has already been sold by Richard boston for his invalid

lein on Appellant's "**interest therein**" at'**Public auction.**' Appellant moves for stay in this Court due the above pending appeal to Supreme court.

On the 15th day of April, 1988.

Earlene Polyak

3179 Middlefield drive
Trenton, Michigan 48183
(313) 676-3364

Certificate of service

I certify that a true copy of this pleading has mailed First Class to robert boston, 2100 One Commerc Place, Nashville, Tennessee, 37239, and the U.S. Court of appeals, cincinnati, Ohio 45202 and all parties of interest in this cause.

_____

UNITED STATES DISTRICT C
MIDDLE DISTRICT OF TENN
COLUMBIA DIVIS

FRANK HULEN AND
WILMA LESNANSKY

JURY TRIAL DEMANDED

V

No. 1;87-0075
(1:84-0083 & 1;84-0082)

EARLENE POLYAK
COMPALINT AND COUNTER-CLAIM

MOTION TO SET ASIDE
ATTORNEY COSTS AND FEES

Appellant Earlene Polyak moves that attorney fees and costs awarded Robert Boston on January 9, 1985, be set aside pursuant Rule 25FRAP"A certificate of service must accompany the submission of any document to Court of Appeals. Robert Boston submitted costs and attorney fees awarded in 1:84-0083(appela No85-5032) in this case to the court of Appeals, but a certificate of service has never been served on appellant to allow objections.Robert Boston has submitted $1112,76 in lein on Appellant's "interest therin" to sell her property at Public Auction in chancery Court of Lawrence County.

On the 30th day of December, 1987.

Signed Earlene Polyak (3050 627-3464
4063 Hood Rd. Lakd Park Florida 33410

Certificate of Serice

I certify that a true copy has been mailed to robert Boston 100 One commerce Place, Nashville Tennessee and Court of ppeals, Cincinnati, Ohio 45202

Signed Earlene polyak

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
COLUMBIA COURT

FRANK HULEN AND
WILMA LESNANSKY

DEMAND JURY TRIAL

V

No. 1:87-0075
(1:84-0082 & 1:84-0083)

EARLENE POLYAK
COMPLAINT AND COUNTER-CLAIM

AMENDED
NOTICE OF APPEAL

Plaintiff Earlene polyak gives notice of amending notice of appeal to denial of complaint and counter-claim for jury trial and damages as sset forth in complaint denied on September 29, 1987, to withdrawl of appeal on October 2, and amended order October 27, 1987, to the Supreme Court of the United States. She amends appeal to include order on October 5, October 8, order, October 13,court of appeals and withdrawl of of October 2, and October 27, 1987, in Sipreme Court and submits briefs in appeal to the Court of Appeals.

Appellant believes that she is being denied federal protection in denial of due process and depriviation of civil and constitutional rights in denial of jury trial. The above complaint was taken under Rule 60(b)(2)(3)FRcivP.

On the 30th day of November 1987.

Signed Earlene Polyak
4063 Hood Rd.
Lake Park, Florida 33410
(305) 627-3564

Certificate of Service

I certify that a true copu of pleading has been mailed to obert Boston 2100 One Commerce PlaceNashville, Tennessee, ourt of Appeals cincinnati ,Ohio 45202

Earlene Polyak

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION

FRANK HULEN AND
WILMA LESNANSKY

DEMAND JURY TRIAL

V

1:87-0075
(1:84-0082 & 1:84-0083)

EARLENE POLYAK
COMPLAINT AND COUNTER-CLAIM

MOTION TO WITHDRAW
NOTICE OF APPEAL TO
SUPREME COURT

Plaintiff Earlene Polyak give notice of withdrawl of Notice of appeal to the Supreme Court of the United States. This notice was filed on October 2, 1987. She withdraws both notices of appe to the Supreme Court.

Plaintiff requests that any rest ·ickers due the mistake in filing to two courts be waived. she just discovered this mistake when she started to review case after frequent hospitalizations for heart surgery.
On the 30th of november 1987.

Respectfully yours,
Earlene polyak
4063 Hood road
Lake Park, Florida 33410

Certificate of service

I certify that a true copy of this pleading has been mailed to richard boston 2100 One commerce Place Nashville, Tennessee Mr Joseph Spaniol Jr. Supreme court of the united States ,Washington D.C. and the court of Appeals Cincinnati, Ohio 4502.

Signed Earlene polyak

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

FRANK HULEN AND
WILMA LESNANSK

v

EARLENE POLYAK

Supreme Court of U.S.
FILED **OCTOBER 27, 1987**
No. 1:87-0075
(1:84-0083 & 1:84-0082)
Judge Higgins
JURY DEMAND

AMENDED
NOTICE OF APPEAL

Plaintiff Earlene Polyak, amends appeal to denial of complaint and counter-claim on September 29, to include order on October 5, and October 13, 1987, to the Supreme Court of the United States. she believes she is being denied federal protection in the denial of due processcivil and constitutional rights and laws in the above case. Petitioner grounds this appeal in the Honorable Thomas A Higgins conflict of interest and failure to rescue from all of pro se ltigant's cases prior to action on this case. The above complaint was taken under 60(b)(2)(3) FrcivP, and demand jury trial prior to selling properties in order submitted on August 21,1987, without jury trial and appeal never having been heard, at Public Auction without any compensation.

This action is amended to be taken under 28 U.S.C. 1443, and related statutes.

the first Notice of Appeal was taken on October 1,

1987, and is amended to include allabove orders on October 16, 1987.

Signed Earlene Polyak

3179 Middlefield Drive
Trenton, Michigan 48183
(313) 676-3364

CERTIFICATE OF SERVICE

I certify that a true copy of this pleading has been mailed first Class to Mr. Joseph Spaniol, Clerk Supreme court of the United States, Washington D.C 20543, Mr. robert Boston, 2100 One Commerce Place, Nashville, Tennessee 37239, and all parties of interest.

Signed Earlene Polyak

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

FRANK HULEN AND
WILMA LESNANSKY

V

JURY DEMAND
No. 1:87-0075
(1:84-0082 7 1:84-0083)

EARLENE POLYAK
COMPLAINT AND COUNTER-CLAIM

AMENDED
NOTICE OF APPEAL

Plaintiff Earlene Polyak, gives notice of amending notice of appeal to denial of complaint and counter-claim for a jury trial and damages as set forth in complaints on September 29, October 5, 1987, to include order granting withdrawl of petition for reconsideration (submitted on September 29 and as a motion on October 13, 1987)on November 13, 1987. She believes that she is being denied federal protection in denial due process and the depriviation pf civil and constitutional rights and laws. the above complaint was taken under 60(b)(2)(3)FRCIVP. Notice of Appeal to Supreme Court 10/2/87 nulled by order 10/5/87.

On the 16th day of october 1987.

Signed Earlene Polyak
3179 Middlefield Dr.
Trenton, Michigan 48183
(313) 676-3364

Certificate of Service

I certify that a true copy of this has been mailed first Class to the Court of Appeals, cincinnati, Ohio,Chancery Court Robert boston 2100 One commerce place Nashville, Tennessee 37239

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

FRANK HULEN AND
WILMA LESNANSKY

V

EARLENE POLYAK

JURY DEMAND
No. 1:87-0075
(1;84-0082&1;84-0083)
(1974 Chancery)

COMPLAINT AND COUNTER-CLAIM

NOTICE OF APPEAL

Plaintiff Earlene Polyak, gives notice of appeal to the denial of complaint and counter-claim for a jury trial as set forth in complaints on September 29, and October 5, 1987 to the court of Appeals for the sixth Circuit.She believes that she is being denied federal protection in the denial of due processand the depriviation of civil and constitutional rights and laws. The above complaint was taken under Rule 60(b)(2)(3) Fr civP.

On the 8th of october 1987.

Signed Earlene Polyak
and address

Certificate of Service

I certify that a true copy of this pleading has been mailed First class to Chancery Court Lawreceburg Tennessee and Richard Boston 2100 One Commerce Place, Nashville, Tennessee 37239.

***It is assumed that Clerk is returning Notice of Appeal to the Supreme Court of the Uniteds States due to insufficient funds in money order. A money order of $105.00 is enclosed to appeal to Court.**

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT TENNESSEE-NASHVILLE

FRANK HULEN AND
WILMA LESNSNAKY

V

EARLENE POLYAK

JUDGMENT IN A CIVIL CASE

CASE NO. 1:87-0075

Jury verdict: this action came before the Court for for a trial by jury. The issues have been tried and and the jury has rendered its verdict.

XDecision of the Court. this action came to trial on hearing before the Court. the issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDICATED

that this action is remanded to the Chancery Court of Lawrence county,, Tennessee.

This document was entered on the docket in compliance with rule 58 and or Rule 79 (a) FRCP on 10/5/87. By BJV

October 5, 1987
Date

JULIET GRIFFIN
Clerk

Suzanne Welch
(By) Deputy Clerk (3)

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

FRANK HULEN AND
WILMA LESNANSKY
Plaintiff

v

EARLENE POLYAK
Defendant

DEMAMD JURY TRIAL
Counter-Claim
No. 1:87-0075
(1:84-0082 & 1:84-0083)
Judge Higgins

RECALL ORDER AND
COMPLAINT AND COUNTER-CLAIM
AND DEMAND JURY TRIAL

PETITION FOR RECONSIDERATION

Plaintiff Earlene Polyak petitions for reconsid ation of denial of complaint and counter-claim thic which was denied on September 29, 1987.

On September 23, 1986, Plaintiff filed motion moving that the Honorable Thomas A Higgins dis- qualify himself in 1:85-0125 and 1:86-0036 and and asked the clerk to reassign her to another district Judge, who might be more tolerant of her unavoidable health problems in helping get her cause before the Court.

1. Plaintiff submitted conplaint and counter- claim and jury demand on August 27, 1987And-**complain** **was not filed until September 29, 1987.**case was not not reassigned .

2. Motion to disqualify denied 1:85-0125, and 1:86-0083, on September 24, 1987,Plaintiff did not

case had not been reassigned.

3. Plaintiff submitted objections on September 28, 1987, but Judge Higgins acted on No. 1:87-0075 (1:84-0082 & 1_84-0083, **before allowing ten days for objections to denial of disqualify.**

4. Plaintiff moves that she be allowed to amend complaint.

on the 30th day of September.

signed Earlene polyak
3179 Middlefield Drive
Trenton, Michigan 48183
(313) 676-3364

Certificate of Service

i certify that a true copy of this pleading has been mailed to Robert Boston, 2100 one commerce Place Nashville, Tennessee and to Michael Cain 29 Public Square Columbia Tennessee and to all parties of interes . And to the United states Court of Appeals cincinnati, ohio 45202.

signed Earlene Polyak

Earlene Polyak
3179 Middlefield Drive
Trenton, Michigan 48183
(313) 676-3364

October 1, 1987

Ms Juliet Griffin,Clerk
United States District Court
Nashville, Tennessee 37203

DEMAND JURY TRIAL

Re: COMPLAINT AND COUNTER-CLAIM AND DEMAND JURY TRIAL !:87-0075(1:84-0083 & 1:84-002)

Dear Ms. Griffin:

I am submitting a formal letter of withdrawl of the petition for reconsideration of the order entered September 29, 1987, by the Honorable Thomas A. Higgin The petition for reconsideration was included with money order, which I was trying to get to you in the espress mail on September 30, 1987. I responded to order, which you read to me over the telephone and stated that order included law source at the bottom. I am withdrawing petition submitted on September 30,

I received the order of September 29, to day. I find ambigous letter from Robert Boston attached instead of law source. I decided to respond with a Notice of appeal. I believe this another example of prejudice.

I called but you were in meetings all day.

Signed Earlene Polyak

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION

FRANK HULEN AND
WILMA LESNANSKY

Plaintiff

DEMAND JURY TRIAL

No. 1:87-0075

EARLENE POLYAK
COMPLAINT AND COUNTER-CLAIM

Defendant

COMPLAINT AND COUNTER-CLAIM
AND DEMAND JURY TRIAL
AND MOVE ORDER FOR DISMISSAL

MOTION TO RESTYLE TITLE

Appellant Earlene Polyak moves to restyle title for appeal submitted to the United States Court of Appeals as it appears in original complaintand counter-claim submitted to the District Court on August 28, 1987. The clerk has made an errorin sending appeal to sixth circuit as Frank Hulen et al v Earlene Polyak.

Appellant believes the Counter-claim becomes Plaintiff-Appellant on appeal, and this mistake may refelct on the status of this Counter-claim on appeal.

Appellant requests that this correction be made promptly as she is preparing briefs.

On the 23rd day of November 1987.

Signed Earlene Polyak(305) 627-3564
4063 Hood Rd. Lake Park, florida 33410

Certificate of Service

I certify that a true copy of this pleading has been mailed to robert Boston 2100 One Commerce Place Nashville, Tennessee and the United States Court of Appeals, cincinnati Ohio

Signed Earlene Polyak

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION

FRANK HULEN AND
WILMA LESNANSKY

FILED
9-29-87

V

No. 1:87-0075
Judge Higgins

EARLENE POLYAK

MEMRANDUM AND ORDER

Before the Court is the pro se "complaint and Counter-Claim and Demand Jury Trial and Remove Order for Dismissal' filed by Earlene Polyak.

The underlying state action which the Petitioner seeks to remove relates to a partion suit pending in the Chancery court of lawrence county, Tennessee.

the petitioner seeks the removal of the state court action based upon diversity of citizenship and the amount in controversy. The petitioner alleges her constitutional rights are being violated and that she will suffer irreparable harm from the partition sale of certain real property in Lawrence County, Tennessee on which her retirement home is located. Attached to the petition is a motion submitted by the plaintiff in the underlying seeking an order of sale.

this action is simply not removable for several

reasons:

1. Under the provisions of 28 U.S.C.1446(b) a petition is required to be filed within thirty days after receipt of the initial pleading setting forth the claim upon which the proceeding is based. However it is apparent that the state court action has for a number of years and is in its terminal stage.

2. the petition is not verified as required by 28 U.S.C. 1446(a).

3. The petition does not have attached a copy of the process and pleadings and orders served upon petitioner as required by 28 U.S.C. 1446(a).

4. the petition is not accompanied by a bond of good and sufficient surety as required by 28 U.S.C. 1446(d).

Accordingly, this action is remanded to the Chancery Court of Lawrence county, Tennessee.

Pursuant to the provisions of 28 U.S.C. 1447(c) the Clerk is directed to mail a certified copy of this order of remand to the Clerk and Master of the Chancery Court of Lawrence County, Tennessee.

It is so ORDFRED.

Signed Thjomas A. Higgins

Note: Petition was filed within thirty days on Second order to sell, bond made, pleadings attached.

CHANCERY COURT OF LAWRENCE COUNTY, TENNESSEE

FRANK HULEN AND
WILMA LESNANSKY
Plaintiffs

vs Civil Action No. 1974

EARLENE POLYAK
Defendant

ORDER

Upon motion of plaintiffs to sell that certain parcel of land formerly at issue in this lawsuit, said sale having previously been ordered by this Court and said Courthaving been affirmed through all stages of the appellate process, it is hereby ordered as follows:

1. Col. Eulan Hooper is hereby authorized and directed to advertise, on behalf of the parties herein, the sale of land in Exhibit 1 hereto under the following terms and conditions of this order: Mr. Hooper will advertise said sale in a newspaper pf general circulation in Lawrence County Advocate said sale to be conducted at public auction pursuant to this order on a Saturday at 10:00 a.m., said date to be determined by Mr. Hooperand set out in the advertisements, and not to be less than 21 days following the entry of this order. Said advertisement shall be run in no less than three

APPENDIX C

separate issue of said newspaper prior to the date of such sale. Said sale shall be conducted in a manner consistent with normal and usual practice for auction sales held in Lawrence County, Tennessee and the land shall be sold to the highest best bidder for cash, 10% of payment to be delivered on the date of sale and held by Mr. Hooper in trust for deposit into the registery of the Courton the following Monday. The remainder shall be due by 12:00 noon on aforesaid "following Monday payable to the Lawrence County Clerk and Master's office, who shall in turn deposit into the Court's registry.

2. Upon deposit of said funds into registry of this Court, the Clerk and Master is directed and authorized to prepare an appropriate deed conveying title to the property as ordered herein to the purchaser of said land at auction, or his or her designee or assign. Said deed shall divest all parties hereto of all right, title and interest in and to said land pursuant to this and previous orders of this Court.

3. Upon delivery of the above-referenced deed, and payment of the purchase price for the land into

the regristry of this Court, the Clerk and Master shall divide the net proceeds equally among the parties hereto, after having paid Eulan Hooper a feefor his services in connection with said auction as ordered herein in the amount of 6 per cent of the gross amount received at said auction, plus reimbursements for any reasonable costs incurred in conducting said auction sale. In addition, the Clerk and Master shall be paid a fee for her services as set out herin in the amount of $250.00, and shall pay from defendant's portion of the proceeds, all court costs incurred since this case initially filed. Thereafter, the Clerk and Master shall pay to parties hereto the net amount due each party pursuant to the Court's partition, subject, however to payment by the Clerk and Master all debts of all creditors of record of any partywho have a lein against any interest in siad landas a result of leins against party's interest therein. Such leins of record shall attach to the proceeds of the land the same as same attached to the actual land.

4. All other matters are reserved pending further of the Court.

So ordered this [illegible] day of September, 1987.

Hon Jim T. Hamilton, Ciruit

APPROVED FOR ENTRY:

Signed Robert Boston
Attorney for Plaintiffs

Lein placed by Robert Boston on December 12, 1984 NOTE BOOK 19 page 270 Lein Book 7 page 497-499 by Genvva Frisbee. This lein for undisclosed amount. Lein placed by Robert Boston January 22, 1985 Note Book 19 page 280 Lein book 7 page 542 for $1112.76.

Mr. Boston's cost and attorney fees were corrected in Court of Appeals to $850.01. Mr. Boston did not serve Appellant with a copy of costs for objections. Costs presented in District Court composed mostly of lang distance telephone calls to this father, William Boston. Boston Bates' Mail.

JUDGMENT

This cause came on to be heard on the 19th day of December, 1983, before the Honorable Jim T. Hamilton, Judge, upon motion this day filed by defendant, personally in her own behalf, Statement and argument of the Defendant, Earlene Polyak, in her own behalf, from all of which the Court finds no merit, and said motion is here and now overruled in its entirety. Judgment is signed by Charles Holt, Boston, Bates & Holt and Judge Hamilton and entered December 20, 1983

ORDER

This cause came to be heard on this the 19th day of December, 1983, before the Honorable Jim T. Hamilton, Judge Part II of the Circuit and Chancery Courts of Lawrence County, Tennessee, on the Motion for a New Trial or for Alteration or Amendment of judgment of the order previously filed herein by the Defendant, Earlene Polyak by and through her counsel of record, Henry Henry & Stack, and upon the oral motion of said Earlene Polyak to be be allowed to represent pro se, and that Henry Henry & Stack be relieved as counsel and further aforementioned Motion not be heard in this Court IT IS THEREFORE ORDERED are relieved as counsel in this cause and that aforementioned Motion for a New Trial etc, be and hereby dismissed. This order was signed by Thomas Stack, William Boston and Judge Hamilton and entered January 10, 1984.

The Notice of Appeal was mailed to the Chancery Court of Lawrence County on December 30, 1983, and a copy was mailed the the Court of Appeals in Nashville, Tennessee.

On july 26, 1984, Mr. Evans filed a complaint against Appellant in the Circuit Court of Lawrence County, Case No. 10647, Buford Evans v. Earlene Polyak

CHANCERY COURT OF LAWRENCE COUNTY, TENNESSEE

FRANK HULEN ET AL
Plaintiffs

VS CIVIL ACTION NO. 1974

EARLENE POLYAK
Defendant

ORDER

This cause came on to be heard this the 29th day of July 1983, before the Honorable Jim T. Hamilton, Judge Part II of the Circuit and Chancery Court in Lawrence County, Tennessee, While holding Chancery Court for Lawrence County Tennessee, upon complaint hereto filed in this cause, the Answer thereto, the testimony of witness in open Court, and the entire record in in this cause, whereas at the conclusion of which defendant's attorneys were granted the privilege of presenting a brief to the Court within a reasonable time, after the conclusion of which the court found in memo dated August 11, 1983, the following findings:

1. That the property in question consists of approximately 40 acres, which belonged to the parties mother.

2. That the property cannot be partitioned in kind as there are three distinctly different

types of property within the 40 acres. One portion of the property includes the home place, well and barn, another portion contains woods and is a low lying wet area, and the remaining portion consists of level flat land which is suitable for raising crops.

3. The Court finds there is no way to divide this land equally between these heirs, without selling said property and dividing the proceeds.

4. The proceeds of this sale after payment of all expenses incident to sale, including attorney fees will be divided equally between the heirs, except that the cost of this case shall be deducted from the defendant's share of said proceeds.

5. This sale shall be conducted by Eualn Hooper unless the parties agree on another real estate company.

All of which is therefore, ORDERED AND DECREED by the Court.

This the 19th day of Oct. 1983.

Signed Jim T. Hamilton
Jim T. Hamilton, Circuit

APPROVED FOR ENTRY:
BOSTON BATES & HOLT
Signed William Boston
Attorney for PLAINTIFF
Signed Thomas Stack

ILENA TUICN

Date maps as this should show ... [illegible] that it is used chiefly to ... The area indicated the is not a continuous ... [illegible]

Under #7.00 | Under #7.05 | Under # 7.00

13.26 AC
#11,249.00

15.57 AC
#11,223.00

12.47 AC
#11,223.00

BEAN Field

DWELLING

BARN

20

BEAN Field

BEAN Field

TRACT ①

TRACT ②

TRACT ③

495'

589'

414'

THIS MAP DRAWN BY DOSON DEEDS

T. C. SONS

FILED Aug 24, 1987
Book 20 p. 191
Lein Book 9
Cathy H. McClew
Geneva Frisby C&M

NOTICE OF CLAIM OF LEIN

TO:EARLENE POLYAK
LEINOR: BUFORD EVANS

Please be notified that I, Buford Evans, individually and as Evans Realty and Acution Company, claim a lein against any interest the above person holds in herinafter described tract of real property in Lawrence County, Tennessee by virture of a judgment obtained against Earlene Polyak in the amount of $485.00($475.00), plus cost and interest in Case No. #1067, Circuit Court of Lawrence County Tennessee.

Said property originally consisted of two tracts described in Deed Book 44, Page 94,ROLC, Tennessee, being the property of E.R. Hulen and deeded to Rena Hulen, widow of E.R. Hulen from Frank Hulen and wife,Dora Lee, Earleen Hulen Hill and husband J.H,and Wilma Hulen Lesnansky and husband Michael by Deed if record in Book 89 pp. 175,ROLC,Tennessee and more particularly described as follows:

> Situated, lying and being in the old 14th Civil District(now 3rd) of Lawrence County and begining at a stone in the turn of Jones-

town Road:thence east with said road 96 poles to the southeast corner of the tract of land which this a part; thence north 71 poles to a stake in the east boundary of said tract of land of which this is a part;thence west 96 poles to a willow oak in west boundary of said tract of land of which this is a part; thense south 71 poles to the begininng and containing 42½ acres, more or less.

This the 24th day of August 1987.

STATE OF TENNESSEE
COUNTY OF LAWRENCE

Signed Buford Evans

Sworn to and suscribed before me this 24th day of August 1987.

NOTARY PUBLIC

CERTIFICATE OF SERVICE

I, Bufors Evans hereby certify I mailed a true and exact copy of this instrument to Darlene Polyak 3179 Middlefield Drive Trenton, Michigan 48183 on the 24th day of August 1987.

Signed Buford Evans

Mr. Evans filed a lein on February 10, 1986 Note Book 19 Page 396 Book 8 page 18549

the sale must show clearly by the facts, the necessity for such sale, and nothing shortest of the clearest and most satisfactory proof can justify the Court ordering the sale against one (1) of th tenants in common." Reeves v. Reeves, 58 Tenn. 669.

On April 26, 1984, the Court of Appeals dismissed the appeal stating

> And it appearing fron the record that appellant's motion to alter or amend was heard on December 19, 1983, that on January 3, 1984, appellant filed a notice of appeal " from the final judgment entered on December 20, 1983, but the order overruling appellant's motion to alter or amend was not entered until January 10, 1984.
>
> ...and it further appearing that the judgment from which appeal sought is not a final judgment appealable as of right under TRAP Rule 3 in that said judgment orders the sale of property but does not confirm any sale or order transfer of title;
>
> It is therefore ordered that this appeal be and hereby dismissed at at the cost of appellant without prejudice to review of any and all actions of the Trial Court by appeal timely perfected and properly prosecuted from final judgment.

COPIED MAILED TO:
Mr. Larry Brandon
Attorney at law
Murfeesboro, Tennessee 37133

Mr. Ramsey Leathers Clerk
100 Supreme Court Building
Nashville, Tennessee 37219

COURT OF APPEALS
STATE OF TENNESSEE
NASHVILLE 37219

September 9, 1985

Dear Counsel:

RE: BUFORD EVANS

VS

EARLENE PLOYAK

We are returning herewith the copy of the notice of appeal forwarded to this office in the above case.

An amendment to Rule 5 (a) of the Tennessee Rules of Appellate Procedure effective August 15, 1984, deleted the requirement that a copy of the notice of appeal be filed with the clerk of the appellate court.

Signed Ramsey Leathers
Ramsey Leathers, Clerk

IN THE CIRCUIT COURT OF LAWRENCE COUNTY, TENN

BUFORD EVAns 7 sons

vs CIVIL ACTION NO.: 10657

EARLENE POLYAK

O R D E R

This case came on to be heard and was heard before the Honorable Jim T. Hamilton, on plaintiffs Motion to Forward records of this case from the Circuit Court of Lawrence County, Tennessee to the Court of Civil Appeals.

IT IS ORDERED to the Court that Plaintiff's Motion be denied.

This 7th day of November, 1985.

Signed Jim T. Hamilton
JIM T. HAMILTON
CIRCUIT JUDGE
PART 1

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

DARLENE POLYAK

V

THOMAS STACK

DEC 3 1985 FILED

NO. 1 85 0125

ORDER

Although improperly styled "Petition for Removal this case appears to be an action for attorney negilence. Diversity exists, and jurisdicitonal amount is alleged. This pleading has been indulged with every reasonable presumption because of plaintiff's pro se status. Although it contains many of the same allegations and requests for relief made in plaintiff's numerous other frivilous filings in this Court, this petition presents allegations of attorney negilence or malfeasance which allow it to survive initial review. It is filed within one year after the order on nonsuit was entered by Judge Hamilton (Judge Weatherford signed) of similar suit in Lawrence County.

The injunction hereto issued prohibiting Mrs. Polyak filing further suits in this Court is modified to permit the filing of this petition. The Clerk will file and issue process.

Signed Thomas A Wiseman Jr.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT FO TENNESSEE

April 30, 1996

Mr. John P. Hehman, Clerk
United States Court of Appeals
U.S.P.O. & Courthouse
Cincinnati, Ohio 45202

Re. Case No. 86-5462 Mrs Polyak
Petition for W... of Mandamus

Dear Mr. Hehman:

This petition complains of the action of the undersigned in failing to file and issue process on a complaint for Mrs. Polyak against William E. Boston. I have not previously acted upon this complaint because I was considering the issuance of a show cause order upon Mrs Polyak to show cause why she should not be held in contempt of the previous Order of November 23, 1985, whereby Mrs Polyak was enjoined from filing any further suits in this Court arising out of the patrition sale of her property in Lawrence County. That Order was entered because of previous filings of Mrs Polyak against various persons in this Court, all stating essentially the same facts, and arising out of state court proceedings which had been fully ligitated and adjudicated. I felt Mrs. Polyak was abusing the process of the Court. My decision has been reinforced by the petitions for

writ of mandamus received today. She has taken an inordinate amount of this Court's time to the determmint of othe ligitants and should be severely sanctioned therefor.

I have rescued myself concerning Mrs. Polyak and a copy of that order is enclosed. Please consider this my response to the petition filed herein.

Yours very truly,
Signed Thomas A. Wiseman

Note: Judge Wiseman presides at the Columbia, Tennessee Division of the United States District Court for the Middle District of Tennessee, which is located in the same building as the State Court. Petitioner believes Judge Wiseman is referring to the Columbia Court in which The Honorable Jim Hamilton presides over state cases,and cases are handled by William Boston, Boston Bates & Holt,and Thomas Stack Henry Henry & Stack(Buford Evans was retained by these lawyers). The petitions for Writ of Mandamus were submitted to schedule jury trials in No. 86-5460, William Boston Boston Bates & Holt and No. 86-5462, Thomas Stack Henry Henry & Stack in United States Court in Nashville.